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| 09/619,424      | 07/19/2000  | Kwang S. Kim         | DESS114787          | 1856             |

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EXAMINER

DEXTER, CLARK F

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3724

DATE MAILED: 09/11/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/619,424

Applicant(s)  
Kim et al.

Examiner  
Clark F. Dexter

Art Unit  
3724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jun 26, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above, claim(s) 1-14 and 23-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-22, 32 is/are rejected.
- 7) ☒ Claim(s) 32 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 12 6) ☐ Other:

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Applicant's election with traverse of Group V (claims 15-22 and 32) in the response filed June 26, 2002 (paper no. 10) is acknowledged. The traversal is on the ground(s) that "the requirement is much too restrictive, as certain of the groups of claims, namely, Groups 1-4, or Groups 5-7, being examined together would pose no undue burdens on the Examiner." This is not found persuasive because the examination of multiple inventions (i.e., subcombinations) in the time allotted for a single invention creates an undue burden on the Examiner, particularly since multiple inventions results in multiple fields of search and multiple scopes of invention leading to multiple patentability considerations.

The requirement is still deemed proper and is therefore made FINAL.

### ***Information Disclosure Statement***

2. The information disclosure statements filed October 17, 2000 (paper no. 3), July 16, 2001 (paper no. 5), January 3, 2002 (paper no. 8), February 20, 2002 (paper no. 11), and August 2, 2002 (paper no. 12) have been received and the references listed thereon have been considered.

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***Drawings***

3. The drawings are objected to because of the following informalities:

In Figures 3 and 4, it seems that numeral 218 with an arrowheaded lead line should be added for clarity.

In Figures 10 and 11, a numeral should be added to indicate the bone fragment for clarity.

Figure 12 is improper since numerals indicating the various features have not been sufficiently provided.

Numeral 218, described on page 13, line 2, does not appear to be shown.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Abstract***

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

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The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The abstract of the disclosure is objected to because it is too long. Appropriate correction is required. See MPEP § 608.01(b).

### *Specification*

6. The disclosure is objected to because of the following informalities:

On page 7, line 34, numeral 100 is not described, and it is suggested to insert the phrase --starts at 100 and-- after "method" or the like.

On page 8, line 16, numeral 122 is not described, and it is suggested to insert the phrase --and the end 122 of the method-- after "foodstuff" or the like; in line 19, "202" is improper since it is later used to specifically indicate the conveyor belt, and it is suggested in line 19 to insert the phrase --including endless conveyor belt-- before 202, and in line 22 to delete "202".

On page 9, line 3, "receiver 208" appears to be inaccurate since it appears to refer to a different receiver than that previously indicated by numeral 208 (it is noted that if it is intended to refer to the same receiver, "a receiver" should be changed to --the receiver-- or the like).

On page 11, line 8, it seems that numeral 236 should be inserted after "sensors" or the like for clarity.

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On page 13, line 1, it seems that numeral 202 should be deleted for the reasons previously described.

On page 15, line 34, numeral 204 appears to be inaccurate, and it seems that it should be changed to --215-- or the like.

On page 18, lines 13 and 27, a numeral should be provided after "fragment" for clarity.

In the paragraph bridging pages 18 and 19, and in the last two paragraphs on page 19, the numerals described are not shown.

On page 19, line 3, numeral 1116 appears to be inaccurate, and it seems that it should be changed to --1106--, and numeral 1116 should be inserted after "top surface" or the like; in line 19, "is" appears to be inaccurate, and it seems that it should be changed to --are--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112, 1st paragraph***

7. Claims 15-22 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification and drawings do not appear to provide support for an adjustable cutting device as set forth in claim 15.

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***Claim Rejections - 35 USC § 112, 2nd paragraph***

8. Claims 15-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 15, line 3, the recitation “adapted to carry foodstuff portions on a first side” is vague and indefinite as to how the first run conveyor is “adapted” to perform the recited function.

In claim 16, lines 1-3, the recitations “a first surface” and “a second surface” are unclear as to how they are related to “a second foodstuff portion side” set forth in claim 15.

In claim 22, line 3, the recitation “being suitably located” is vague and indefinite as to what location of the third conveyor is “suitable” to perform the recited function.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 15-22 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carruthers, pn 4,446,601.

Carruthers discloses a cutting apparatus with almost every structural limitation of the claimed invention but lacks a cutting device positioned along/below the second conveyor. However, the Examiner takes Official notice that cutting devices in such a location are old and well known in the art for performing a cutting operation during conveying of the work piece. It would have been obvious to one having ordinary skill in the art to provide an additional cutter along/below the second conveyor of Carruthers for various known reasons; for example, to perform a second, horizontal cutting of the workpiece to provide a thinner product.

Carruthers also lacks various other features of the claimed invention including a diagonal portion of the second conveyor which includes the vacuum source and a pressure source, and further lacks a third conveyor. However, the Examiner respectfully takes Official notice that conveyors having differently oriented portions including diagonal portions are old and well known in the art for conveying a work piece in a desired direction. Further, it is known to provide vacuum sources where the work piece is to be maintained on the conveyor, and a pressure source to positively remove the work piece from the conveyor at a desired location. Additionally, the Examiner takes Official notice that providing additional conveyors is old and well known in the art for various known benefits including extending the product run to a desired



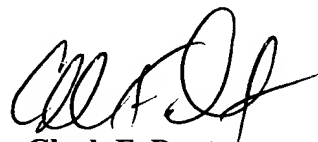
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point in a manufacturing/processing facility. Therefore, it would have been obvious to provide the features lacking in Carruthers to gain the well known benefits including those described above.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404. The examiner's typical work schedule is Monday, Tuesday, Thursday and Friday, and he can be reached during normal business hours on these days.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Allan Shoap, can be reached at (703)308-1082.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers for this group are: formal papers - (703)305-3579; informal/draft papers - (703)305-9835.



**Clark F. Dexter**  
**Primary Examiner**  
**Art Unit 3724**

cfd  
September 9, 2002